

ARTICLE 29. SUBSTANCE ABUSE

SEC. 599.960. GENERAL POLICY.

(a) It is the purpose of this article to help ensure that the State workplace is free from the effects of drug and alcohol abuse. These provisions shall be in addition to and shall not be construed as a required prerequisite to or as replacing, limiting or setting standards for any other types of provisions available under law to serve this purpose, including employee assistance, adverse action and medical examination.

(b) Consistent with Government Code Section 19572 and Governor's Executive Order D-58-86, no State employee who is on duty or on standby for duty shall:

(1) Use, possess, or be under the influence of illegal or unauthorized drugs or other illegal mind-altering substances; or

(2) Use or be under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively.

(c) Employees serving in sensitive positions shall be subject to drug and alcohol testing, hereinafter referred to as substance testing, as provided in this Article when there is reasonable suspicion that the employee has violated subsection (b). In addition, when such an employee has already been found in violation of subsection (b) through the adverse action or medical examination processes under the Civil Service Act (Government Code Section 19253.5; Government Code Sections 19570-19593), as a result of substance testing under this article, or by the employee's own admission, the employee may be required to submit to periodic substance testing as a condition of remaining in or returning to State employment. Unless otherwise provided in the settlement of an adverse action the period for this testing shall not exceed one year.

(d) No employee shall perform duties which, because of drugs taken under a legal prescription, the employee cannot perform without posing a threat to the health or safety of the employee or others. Employees whose job performance is so restricted may be subject to reassignment, medical examination or other actions specified by applicable statutes and regulations.

(e) To protect the public and ensure the safety and security of its correctional institutions, the State must ensure that its peace officers do not use illegal drugs, or misuse prescription drugs, unauthorized or other illegal mind altering substances under any circumstances, and are not under the influence of alcohol while on the job. Consistent with a peace officer's sworn oath to uphold the laws of the State of California, all excluded and exempt State employees who are peace officers under Part 2, Title 3, Chapter 4.5, Section 830.2(d) and Section 830.5 of the Penal Code, will be subject to random drug and alcohol testing pursuant to this article.

(f) For purposes of this Article, an excluded State employee is an employee as defined in Section 3527 (b) of the Government Code; an exempt State employee is an officer or employee of the executive branch of government who is not a member of the civil service.

NOTE: Authority cited: Section 19815.4(d) 19816 and 19820, Government Code.
Reference: Section 19261, Government Code.

SEC. 599.961. SENSITIVE POSITIONS.

(a) For the purposes of this Article, sensitive positions are peace officer positions, as defined by Part 2, Title 3, Chapter 4.5, Section 830.2(d) and Section 830.5 of the Penal Code, and other positions in which drug or alcohol affected performance could clearly endanger the health and safety of others. These other positions have the following general characteristics:

(1) Their duties involve a greater than normal level of trust, responsibility for or impact on the health and safety of others; and

(2) errors in judgement, inattentiveness or diminished coordination, dexterity or composure while performing their duties could clearly result in mistakes that would endanger the health and safety of others; and

(3) employees in these positions work with such independence, or, perform such tasks that it cannot be safely assumed that mistakes such as those described in (2) could be prevented by a supervisor or another employee.

(b) Filled positions shall be identified as sensitive through the following process:

(1) Subject to Department of Personnel Administration approval, each appointing power shall identify the positions under his/her jurisdiction that meet the standards in (a).

(2) The employees serving in the identified positions and, where applicable, their union representatives, shall receive an initial notice that the position has been identified as sensitive and shall be given 30 days to respond.

(3) After considering responses to the initial notice and meeting with employee representatives as required by the Ralph C. Dills Act (Government Code Sections 3512-3524), the Department of Personnel Administration shall issue a final notice to the employees serving in the positions that have been identified as sensitive. This notice shall include a description of the provisions of this article. Existing practices in this area shall not change for any position until 60 days after the final notice concerning it is issued.

(c) Vacant positions shall be identified as sensitive through the procedures specified in (b), including those procedures involving employee organizations, except that the employee notification provisions as stated in (b)(2) and (b)(3) shall not apply.

(d) Once a position has been designated sensitive, the appointing power shall take measures to reasonably and likely ensure that future appointees to it are aware that it is sensitive and are informed of the provisions of this article.

NOTE: Authority cited: Sections 19815.4(d), 19816 and 19820, Government Code.
Reference: Section 19261, Government Code.